

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06cv135**

RALPH H. CLOANINGER,

Plaintiff

vs

**JOHN T. McDEVITT, In his official capacity
of Sheriff of Burke County, North Carolina;
YONGLA LO a/k/a JOE LO, Individually
and in his official capacity as Deputy Sheriff
of Burke County, North Carolina, STEVEN
PARLIER, Individually and in his official
capacity as Deputy Sheriff of Burke County,
North Carolina, and LIBERTY MUTUAL
INSURANCE COMPANY, as surety,**

Defendants.

**AMENDED
ORDER**

THIS MATTER coming on before the court, pursuant to a motion filed by the plaintiff and the defendants entitled, "Joint Motion to Amend Pretrial Order and Case Management Plan" (#26). In the motion, the parties request that the court amend a Pretrial Order and Case Management Plan that was entered in this matter on March 26, 2007. The motion request that various time limits and deadlines be extended such that trial will not occur until November 2007 or thereafter.

It is the goal of the court presiding in the Asheville and Bryson City Divisions of the Western District of North Carolina to provide a trial date within one year from the date of the filing of the defendant's answer. The answer in this case was filed on September 22, 2006. Previous to the filing of the answer there had been filing of motions to dismiss by the defendant and on July 12, 2006 the filing of a Certification and Report of Initial Attorneys' Conference (#18). The undersigned did not enter a scheduling order in July 2006 due to the fact that the motions were pending. After entering an order in regard to the motions to dismiss, this court neglectfully did not review the file and find the Certification and Report

of Initial Attorneys' Conference and act thereon. In March of 2007, this court discovered that it had not entered a Pretrial Order and Case Management Plan and on March 26, 2007 entered such order and plan consistent in large part with the Certification and Report of Initial Attorneys' Conference filed on July 12, 2006. Due to the undersigned's neglect and a finding of some good cause on the part of the plaintiff and the defendants, the undersigned has determined to **ALLOW** in part and **DENY** in part the Joint Motion to Amend Pretrial Order and Case Management Plan (#26) such that the trial will be held in this matter beginning on October 10, 2007. This scheduling would be consistent with the goal of the court presiding in the Asheville and Bryson City Divisions of the Western District of North Carolina. The undersigned urges counsel for the plaintiff and counsel for the defendants to diligently prepare for trial in this matter. An Amended Pretrial Order and Case Management Plan will be entered consistent herewith.

ORDER

WHEREFORE, it is the order of the court that the "Joint Motion to Amend Pretrial Order and Case Management Plan" (#26) is hereby **ALLOWED** in part and **DENIED** in part as set forth in an Amended Pretrial Order and Case Management Plan filed herewith and that the court, in and of its own motion, continues the trial of this matter from the August 14, 2007 civil session to the October 10, 2007 session.

Signed: May 1, 2007

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Dennis L. Howell
United States Magistrate Judge

